

REMARKS

In the last Office Action, claims 1, 8-12, 15-19 and 21-24 were rejected under 35 U.S.C. §102(b) as being anticipated by US 5,048,990 to Hashimoto et al. ("Hashimoto") and claims 6, 7, 13 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hashimoto. Claim 14 was objected as being dependent upon a rejected base claim and was otherwise indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In accordance with this response, claims 1, 10, 17 and 19 have been amended, and the specification has been revised to provide a direct antecedent basis for the claim terminology. Applicants respectfully request reconsideration of their application in light of the foregoing amendments and the following discussion.

The present invention relates to a writing tool and, with reference to the first exemplary embodiment shown in the drawings, comprises a tubular member or shaft tube 1 having an open front end, and a writing body 2 axially slidable in the tubular member between a forward position in which a writing nib 10 of the writing body extends through the open front end of the tubular member (Fig. 9) and a rearward position in which the writing nib is retracted into the tubular member (Fig. 1). A sealing tube 3 is disposed in the

tubular member 1 at a front portion thereof and has a front end through which the writing nib 10 passes as the writing body moves forward in the tubular member to its forward position (Figs. 9-10) and behind which the writing nib retracts when the writing body 2 is in its rearward position (Fig. 1). A sealing lid 4 is disposed forwardly of the front end of the sealing tube 3 and is movable to open and close the front end of the sealing tube.

A guide tube 6 is slidably disposed in the tubular member 1, and a portion of the writing body 2 extends through the guide tube 6. A biasing spring 7 is disposed in the tubular member 1 and interposed between the sealing tube 3 and the guide tube 6 to resiliently urge the guide tube together with the writing body rearwardly to normally position the writing body in its rearward position. A plurality of flexible elongate members or line portions 51, 52, 53 are provided for moving the sealing lid to open and close the front end of the sealing tube 3. Each of the elongate members has a front end connected to the sealing lid 4 (see Fig. 5), and one or more of the elongate members 52, 53 are connected to the guide tube 6 and another of the elongate members 51 is slidably relative to the guide tube 6 (Fig. 10) and is engagable with the sealing tube 3 during forward movement of the writing body 2 to restrict forward movement of the elongate member 51 to cause the sealing lid 4 to pivot about

the region where the elongate member 51 connects to the sealing lid 4 (Fig. 9) to open the front end of the sealing tube 3. As the writing body 2 retracts, the elongate members pull the sealing lid 4 so as to close the front end of the sealing tube 3.

Independent claim 1, as amended, is directed to a retractable-nib writing tool having a retractable writing body slidable in forward and backward directions in a shaft tube and having a sealing lid and a sealing tube which seal the writing nib of the writing body in association with the forward and backward movements of the writing body. Claim 1 recites that the sealing lid is independent of and not mounted to the sealing tube, that the sealing lid and a guide tube fixed to the writing body are linked by a plurality of thin line portions, that the thin line portions are disposed at equal intervals around the sealing lid and constitute therewith a unitary structure, and that the sealing lid is opened and closed relative to the sealing tube by the forward and backward movements of the thin line portions. Claim 1 further recites that at least one thin line portion of the plurality of thin line portions which are advanced by the forward motion of the guide tube is regulated and other thin line portions can be flexibly bent and deformed. The writing tool defined by claim 1 is not disclosed or suggested by Hashimoto.

Hashimoto discloses a writing tool having a retractable writing body 8 which is slid able in forward and backward directions in a shaft tube 1 and which has a sealing lid 4 and a sealing tube 3 that seal the writing nib of the writing body in association with the forward and backward movements of the writing body. However, in Hashimoto, the sealing lid 4 is pivotally mounted to the sealing tube 3 by means of a pin 6 that extends through holes 3d, 3d of sealing tube ears 3c, 3c so that the sealing lid 4 is freely pivotable about the pin 6 (col. 5, lns 56-59). The sealing lid 4 is held in the closed position by two thread-like members or strings 15, 15 that are connected to protrusions 11b, 11b of the guide tube 11 (see Fig. 2 and col. 7, lns. 31-42) so that when the guide tube 11 is urged rearwardly by a retracting spring 12, the strings 15, 15 pull the sealing lid 4 closed against the biasing force of an extension spring 7. When the guide tube 11 is moved forwardly, the strings 15, 15 slacken (Figs. 3-4) and the elastic force of the extension spring 7 pivots the sealing lid 4 to its open position while the slackened strings 15, 15 are pulled forwardly (col. 8, lns. 3-13).

To prevent the strings 15 from slackening in the region in front of the sealing tube 3, knots 15a are formed in the strings 15, and the knots 15a engage with the rear end of the sealing tube 3 to prevent the strings from slackening in

front of the sealing tube 3. As noted in Hashimoto, the knots 15a may be eliminated (col. 3, lns. 20-21). As shown, for example, in Figs. 2 and 4 of Hashimoto, the two strings 15 are tied to grooves 4d in protrusions 4c of the sealing lid 4, and the strings 15 do not constitute a unitary structure with the sealing lid 4.

In Hashimoto, if the force of the retracting spring 12 were increased in order to increase the pulling force exerted by the strings 15 in an attempt to increase the sealing force between the sealing lid 4 and the sealing tube 3, the portions of the sealing lid 4 that are located near the pin 6 and which are spaced from the strings 15 would be slightly raised or lifted up thereby reducing -- not increasing -- the sealing force. In other words, a slight gap would be created between the sealing lid 4 and the sealing tube 3, which deteriorates the sealing function between the sealing lid 4 and the sealing tube 3. By contrast, in the writing tool recited in claim 1, the sealing lid is independent of and not mounted to the sealing tube, and the thin line portions are disposed at equal intervals around the sealing lid and constitute therewith a unitary structure so that a pulling force exerted on the thin line portions is distributed evenly to the sealing lid 4, regardless of the strength of the pulling force, thereby increasing the desired sealing function.

More specifically, in the case of the present invention, when the sealing lid 4 is to be opened, the sealing lid is first moved completely away from the sealing tube 3. Then the bulged portion 51b of the thin line portion 51 engages with the engaging step portion 3e, and movement of the thin line portion 51 is restricted so that the sealing lid 4 is pivoted about its front tip portion by means of the other thin line portions 52 and 53 so that the sealing lid 4 is opened. When the sealing lid 4 is to be closed, it is first pivoted in the closing direction by the thin line portions 52 and 53 and then the sealing lid 4 is pulled against the sealing tube 3 by the three thin line portions 51, 52, 53 which, due to their uniform spacing about the sealing lid 4, exert equal pulling forces on the sealing lid 4 to hold the sealing lid 4 in close contact with the sealing tube 3 to provide the desired sealing effect.

A rejection for anticipation under 35 U.S.C §102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In addition, the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); In re Spada, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). An anticipating reference must describe all of the elements and

limitations of the claim in a single reference, and enable one of skill in the field of the invention to make and use the claimed invention. Merck & Co. v. Teva Pharm. USA Inc., 68 USPQ2d 1857, 1861 (Fed. Cir. 2003). Applying this law, Hashimoto clearly does not anticipate claim 1.

Hashimoto does not disclose the limitation of the sealing lid being independent of and not mounted to the sealing tube, nor does Hashimoto disclose the limitation that the thread-like members 15, 15 and the sealing lid 4 constitute a unitary structure. Absent these limitations, Hashimoto cannot anticipate claim 1 and the claims dependent thereon.

Independent claim 17, as amended, recites a writing tool in a different manner from that recited in independent claim 1. Claim 17 recites that the writing tool comprises a tubular member, a writing body axially slidably in the tubular member, a sealing tube disposed in the tubular member, a sealing lid disposed forwardly of the front end of the sealing tube and being movable to open and close the front end of the sealing tube, a guide tube slidably disposed in a tubular member to undergo axial sliding movement with the writing body and through which extends a portion of the writing body, and a spring disposed in the tubular member between the sealing and the guide tube to resiliently urge the guide tube and the writing body rearwardly to normally position the writing body in its rearward position. Claim 17 further requires a

plurality of flexible elongate members each connected at a front end thereof to the sealing lid, one or more of the flexible elongate members being connected to the guide tube so that when the guide tube moves rearwardly the one or more flexible elongate members pull the sealing lid to close the front end of the sealing tube and when the guide tube moves forwardly the one or more flexible elongate members slacken to permit the sealing lid to open the front end of the sealing tube, and another of the flexible elongate members being slid able relative to the guide tube and engageable with the sealing tube during forward movement of the writing body to restrict forward movement of the another flexible elongate member so that further forward movement of the writing body causes the sealing lid to pivot about the region where the front end of the another flexible elongate member connects to the sealing lid to open the front end of the sealing tube. No similar writing tool is disclosed or suggested by Hashimoto.

In Hashimoto, both of the thread-like members or strings 15, 15 are tied to the protrusions 11p, 11p of the guide tube 11 and neither is slid able relative to the guide tube in the manner of the present invention and as recited in claim 17. Furthermore, neither of the strings 15, 15 is engageable with the sealing tube 3 during forward movement of the writing body 8 to restrict forward movement of the string 15 so that further forward movement of the writing body causes

the sealing lid 4 to pivot about the region where the front end of the string connects to the sealing lid 4 to open the front end of the sealing tube, as expressly required by claim 17. In Hashimoto, each of the strings 15 may be provided with a knot 15a that engages with holes in the sealing tube 3 after the sealing lid 4 is opened to prevent slackening of the lines 15 in front of the sealing tube 3 (col. 8, lns. 24-42).

Stated otherwise, claim 17 requires that one of the flexible elongate members engage with the sealing tube during forward movement of the writing body to restrict forward movement of the flexible elongate member after which further forward movement of the writing body causes the sealing lid to pivot about the region where the front end of the flexible elongate member connects to the sealing lid to open the front end of the sealing tube. By contrast, in Hashimoto, the knots 15a in the strings 15 engage with the sealing tube 3 after the sealing lid is fully opened (see Figs. 3-6 and col. 8, lns. 3-42). Claim 17 requires that the flexible elongate member engage with the sealing tube before opening of the sealing lid whereas Hashimoto discloses engaging the knots 15a of the strings 15 with the sealing tube 3 after the sealing lid 4 is opened. In addition, claim 17 requires that a portion of the writing body extend through the guide tube. By contrast, in

Hashimoto no part of the writing body 8 extends through the guide tube 11. In the absence of these limitations, Hashimoto cannot anticipate claim 17.

Dependent claim 10 requires that the plurality of thin line portions comprises at least three thin line portions, and dependent claim 19 requires that the plurality of flexible elongate members comprises at least three flexible elongate members arranged at equal intervals around the sealing lid. These limitations are likewise not found in Hashimoto. Hashimoto discloses use of two or, in the alternative, one, thread-like member (col. 7, lns. 43-56), but not three or more thread-like members.

Aside from not anticipating independent claims 1 and 17, Hashimoto does not contain any teaching or suggestion that would have led one of skill in the art to modify the Hashimoto writing tool to render obvious the presently claimed subject matter. Absent applicants' own disclosure, Hashimoto would have led one skilled in the art to modify Hashimoto to replicate the claimed invention.

In light of the foregoing, the application is now believed to be in allowable form. Accordingly, favorable reconsideration and passage of the application to issue are respectfully requested.

Respectfully submitted,

ADAMS & WILKS
Attorneys for Applicants

By:

Bruce L. Adams
Reg. No. 25,386

17 Battery Place
Suite 1231
New York, NY 10004
(212) 809-3700

MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop Amendment, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Thomas Tolve

Name



Signature

August 27, 2007